

AMANDA C. FITZSIMMONS (SBN 258888)
amanda.fitzsimmons@dlapiper.com

DLA PIPER LLP (US)
401 B Street, Suite 1700
San Diego, California 92101-4297
Tel: (619) 699-2700
Fax: (619) 699-2701

EDWARD D. TOTINO (SBN 169237)
edward.totino@dlapiper.com
DLA PIPER LLP (US)
2000 Avenue of the Stars, Suite 400 North Tower
Los Angeles, California 90067-4704
Tel: (310) 595-3000
Fax: (310) 595-3300

AMY M. GALLEGOS (SBN 211379)
agallegos@jenner.com
JENNER & BLOCK
633 West 5th Street, Suite 2600
Los Angeles, California 90071-2054
Tel: (213) 239-5100
Fax: (213) 239-5199

Attorneys for Defendants
MIDLAND FUNDING LLC, MIDLAND CREDIT
MANAGEMENT, INC., and ENCORE CAPITAL
GROUP

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

IN RE: MIDLAND CREDIT
MANAGEMENT, INC.,
TELEPHONE CONSUMER
PROTECTION ACT LITIGATION.

CASE NO. 11-md-2286 MMA (MDD)

*Also Relevant To Case Nos. 3:16-cv-
02157-MMA-MDD; 3:16-cv-02768-
MMA-MDD*

**NOTICE OF MOTION AND MOTION
TO COMPEL ARBITRATION,
STRIKE CLASS ALLEGATIONS,
AND STAY PROCEEDINGS**

Date: September 17, 2018
Time: 2:30 p.m.
Courtroom: 3D

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on September 17, 2018, at 2:30 p.m., or as
3 soon thereafter as the matter may be heard, in Courtroom 3D of the above-entitled
4 Court, located at 221 West Broadway, Suite 3195, San Diego, California 92101,
5 Defendants Midland Credit Management, Inc., Midland Funding LLC, and Encore
6 Capital Group, Inc. (“Defendants”) will, and hereby do, move the Court for an
7 order compelling arbitration of the TCPA claim filed by Plaintiffs Curtis Bentley
8 and William Baker (collectively “Plaintiffs”), staying all proceedings on the
9 Amended Consolidated Complaint pending completion of arbitration, and striking
10 Plaintiffs’ class allegations. Defendants further move, to the extent there is any
11 question about whether Plaintiffs entered into agreements to arbitrate, for a
12 summary trial of the issue pursuant to 9 U.S.C. § 4.

13 This Motion is made on the basis that the Federal Arbitration Act, 9 U.S.C.
14 § 1 *et seq.*, requires the Court to compel arbitration and issue a stay where, as here,
15 the parties have entered into a valid arbitration agreement.

16 This Motion is based on this Notice of Motion and Motion, the concurrently
17 filed Memorandum of Points and Authorities, the supporting affidavits, all
18 pleadings and files in this matter, all matters of which this Court may take judicial
19 notice, and upon such other and further oral or documentary evidence as may be
20 presented to the Court at or prior to the hearing on this Motion.

1 Dated: July 23, 2018

2 By s/ Edward D. Totino

3 EDWARD D. TOTINO
4 AMANDA C. FITZSIMMONS
5 **DLA PIPER LLP (US)**

6 RICHARD L. STONE
7 AMY M. GALLEGOS
8 ETHAN A. GLICKSTEIN
9 **JENNER & BLOCK LLP**

10 Attorneys for Defendants
11 Midland Funding LLC, Midland Credit
12 Management, Inc., and Encore Capital
13 Group

CERTIFICATE OF SERVICE

I hereby certify that on July 23, 2018, I caused to be electronically filed the NOTICE OF MOTION AND MOTION TO COMPEL ARBITRATION, STRIKE CLASS ALLEGATIONS, AND STAY PROCEEDINGS with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the e-mail addresses denoted on the Electronic Mail Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on July 23, 2018.

s/ Edward D. Totino
EDWARD D. TOTINO